

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 27, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Guthrie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

S 1056 **Military and Militia - Repeals and adds to existing law to prohibit cities and towns from supporting certain military companies or organizations and to provide exceptions.** **Senator Foreman** said this bill added 46-802, a new section to the Idaho Code. It defined organizations permitted to parade with firearms. He quoted the first and second amendments of the United State Constitution and stated **S 1056** supported the rights of all citizens with regard to bearing firearms. He cautioned that due process should not be based in fear. He said the Idaho Attorney General's office reviewed this legislation and found it a sensible change to code.

Senator Lee asked to be reminded of code section 18. **Senator Foreman** explained that section 18 was Idaho's criminal code. He said people could be armed in a lawful manner and were not in violation of code. He acknowledged many people had adverse reactions to firearms and stated being armed did not necessarily mean a person operated outside of the law. He cautioned that fear could abridge rights. **Senator Wintrow** referenced Idaho Code § 18-8103, Title 18, Crimes and Punishments. She did not find it commented on groups parading in public with arms. **Senator Ruchti** questioned allowing groups like the Aryan Nations to march with weapons in public. **Senator Foreman** said the United States Constitution did not list who was approved to exercise constitutional rights. Even the Aryan Nations group could parade in public with weapons.

TESTIMONY: The following individuals electronically registered their opposition to **S 1056**: Emille Jackson-Edney, Jacqueline Hamilton, Simon Richardson, Marsha Bravo, Lindy Hoyt, Lucina Glynn, Bridget Gibson, Andrea Wilson, Brenda Hammond, and Amaia Clayton. Sarah Hansen submitted written opposition to **S 1056**. Written testimony in opposition to **S 1056** was received from Jennifer Beazer, Robin Campbell, Joseph Crupper, Christie Dahlin, Katherine Dawes, Orrin and Jo Len Everhart, Chuck Giordano, Barb Hair, Sarah Hansen, Kathy Konek, Christi Kramer, Robin Lundgren, Mary Ollie, Kelley Packer, Barb Russell, Starr Shepard, Denise Thompson, Tim West, and Andrea Wilson (Attachment 1).

Lindy H. said she opposed groups parading with weapons. She claimed the Idaho State Police reported in 2021 that over 1,600 people were arrested for intimidation with a firearm in public places. She did not feel the proposed changes were an improvement. She believed this bill made Idaho less safe and more divided.

Amaia Clayton, a Senior at Renaissance High School, said she came from a family who owned guns and hunted. She was opposed to **S 1056** because she believed it created a dangerous Idaho. She claimed Idaho was inundated with hate groups and she wanted to prohibit them from parading with firearms. **Senator Ruchti** asked Ms. Clayton what she thought of exercising free speech rights and openly carrying a weapon at the same time. **Ms. Clayton** said one cannot exercise free speech rights and 2nd Amendment rights simultaneously.

Lucina Glynn, a Junior at Bishop Kelly High School, declared she valued and supported law enforcement and its role in protecting her. She claimed weapons violations increased over the last five years, including use of illegal firearms. She relayed that her school had lock downs and threats of violence this year and asked why she should support legislation that complicated the job of law enforcement.

Marsha Bravo said she was a retired teacher who taught for 45 years, and served six years in the Army Reserves. She expressed support and respect for law enforcement and the military. She said the Idaho National Guard was a professional militia and in her opinion **S 1056** would allow extremist groups to carry and parade. She questioned how difficult this would make it for law enforcement to maintain safety.

Dianna David identified as a gun violence survivor. She opposed unvetted people parading with firearms because it could deter others from attending events, or coming to an area. She disclosed that loopholes in the laws allowed someone to kill her family member. She stated a show of force was terrorism and referenced the Terrorism Control Act. She stated intimidation by force was addressed in Idaho Code § 18-8103 under prohibited activities. **Senator Wintrow** acknowledged Ms. David's reference and noted it was difficult to prove intent.

Simon Richardson, a Senior at Boise High School, said he supported the military and law enforcement, and he valued the second amendment rights. He opposed **S 1056** and untrained individuals from parading in public with weapons. He saw parading in public as a display of force.

Lynn Snyder thought groups parading in paramilitary clothing was unnerving. She said she was an avid gun owner who recognized Idaho had a well trained national guard for protection. She asked that Idaho be kept family friendly and that the Committee vote no on **S 1056**.

Tara Adams stated she was at the mass shooting that occurred at Las Vegas. She was concerned about people forgetting to use their words to achieve peace and encouraged more dialogue. Seeing people carrying weapons created fear and intimidation for her. She cited armed people at the Capitol building to protect legislators and commented the general public did not have such protections. **Senator Winder** corrected that the law enforcement officers in this building were not in place to protect legislators but to protect the rights of citizens.

Devin Miller spoke in support of **S 1056**. He said militia referred to the people. It was the job of government to secure the peoples' rights. He felt much of the testimony given was based on emotion. He said there was no constitutional right to safety. **Senator Winder** commented the people had a right to pursue happiness,

which was a sense of freedom and security. He acknowledged it was a delicate balance to protect our individual rights in our laws.

Senator Foreman closed by thanking those who testified as concerned citizens. He said it was a misconception to believe the function of law was to prevent citizens from committing crimes. He stated criminality was a conscious choice. He recognized firearms scared and intimidated some people, but it did not mean a crime was committed by someone carrying a weapon. **Senator Foreman** continued there were many laws on the books that dictated appropriate behavior. He said threatening someone with a firearm was a felony but someone walking by with a holstered firearm was not a crime. He cautioned against trying to legislate out of fear because it could lead to an abridgement of constitutional rights. He acknowledged gun violence was an emotional statement and clarified that violence was committed by people, not guns. He stated the purpose of **S 1056** was to maintain the dignity and respect for the first and second amendments of the constitution.

Senator Ruchti asked if the bill passed, were militia considered illegal. **Senator Foreman** confirmed the bill would allow for the formation of a private militia. He added that President Washington trusted people to form a private militia, not the government. **Senator Toews** said he wanted to protect rights and asked for a definition of unorganized militia. **Senator Foreman** responded that an unorganized militia was every able bodied man between the ages of 18 and 43. An organized militia could be called into duty by the Governor. He explained well regulated meant being in compliance with what people expected of a professional military, which included being issued equipment, having an organized structure, a chain of command, and it required training. **Senator Lee** advised the amendment did not just say militia, it specified well-regulated militia. **Senator Foreman** agreed and added that when the amendment was written, military forces did not exist as they do today. In those days, well regulated meant men were given firearms. He shared his opinion that President Washington had a grave lack of trust in big government, like the British the colonys fought. He repeated that well regulated meant equipping people to be a viable force. **Senator Anthon** said Idaho Code had to address today and asked if the Governor had to give permission for regulated militia to parade. **Senator Foreman** said in his experience, permission to parade extended to every group to which a city issued a parade permit. He said he never heard of the Governor being involved in city parades. **Senator Anthon** suggested it would take careful threading of the needle to be in compliance with this code. He asked about things like honor guards. **Senator Foreman** replied that law enforcement honor guards attended educational functions, public events, labor day parades, veterans parades, etc., and he never heard of a reference to code for them to march. He said there was no reference to code for parades and suggested the current code had been weaponized on occasion or ignored.

MOTION: **Senator Harris** moved to send **S 1056** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Ruchti** expressed opposition to **S 1056**. He stated everyone had a right to free speech, assembly, and to bear arms, but not necessarily at the same time. He believed the Neo-Nazi groups had a right to parade but not with weapons. At the same time, people had a right to yell at the group even using explicit language because that was a first amendment right. He questioned who would feel comfortable exercising their first amendment right if the group was armed. He stated the Committee would regret passing this statute because it permitted Neo-Nazi type groups getting together with weapons. **Senator Ruchti** recalled parading while a cadet at Westpoint. He said the group was disciplined, trained, demonstrated a sense of duty, showed the goal was to protect a certain way of life and the constitution. Seeing militia or Neo-Nazi groups parading with arms likewise demonstrated organization, discipline, and a common sense of purpose. But when

weapons are involved, people also know the group is trained to accomplish their dogma or goals with violence. That is not a second amendment right and **Senator Ruchti** felt it was a problem to send the message to militia groups to bring weapons and start training. He urged the Committee to vote no in this case.

Senator Anthon stated he was not sending a message to anyone and not supporting Neo-Nazi groups. He felt the current statute was ambiguous and did not prevent certain behaviors. He recalled that last year the National Guard presented a bill that repealed this section of code. He cautioned this topic was highly politicized, archaic, and not worth fighting. **Senator Wintrow** said this bill would allow unorganized militia in the state, which could mean more hate groups or large groups of organized people with guns. She continued that Idaho had a history of troubling racism and she believed this law would empower the creation of more hate groups. Her fear was if the law was not removed, bad behaviors would continue. She cited the example of a group protesting at a pride event. **Senator Bernt** stated he did not take lightly the criminal behavior of some groups. He said there were laws on the books in Title 18-8103, Subsection 1 that protected the citizens. He felt confident there would be law and order in the state. He said he would vote yes on **S 1056**. **Senator Toews** voiced his desire to see racism and other evil ideologies eradicated from the state. Laws on the books for a hundred years did not curtail some bad behaviors. He did not see this statute as useful any more and would vote to change it. **Senator Lee** did not think this legislation did what many people were assigning to it, like open up to well organized militia. She said this statute was a relic and a light touch to get rid of old language. She expressed support for the bill. **Chairman Guthrie** echoed Senator Lee's comment. He said he appreciated Senator Foreman's attempt to clean up the language to say cities could not fund militia groups. **Senator Winder** stated Idaho had many good people but sometimes people could be the problem. He reported the national guard's attempt a year ago to clean up language in the penalty clause but there was no way to manage and regulate people. He said people had been killing each other since Abel and Cain and laws would not prevent crimes. He stated individuals had to learn to respect the rights of others and he would vote in favor. **Senator Wintrow** cautioned that allowing armed groups to parade sent a message of dangerousness. She stated laws communicated values, society operated on laws, rewards and punishment. In her opinion, this law may not be a relic. She continued that we have laws because people feared government takeover.

The motion carried by **voice vote**. **Senators Ruchti** and **Wintrow** requested to be recorded as voting no.

RS 30393 **Relating to Public Safety - Amends the heading for Title 20, Idaho Code; amending section 20-101, Idaho Code.** **Senator Schroeder** stated this bill would reorganize and streamline crime victim services in Idaho from three agencies into a single state agency. He added nothing new was included and this bill had no fiscal impact.

MOTION: **Senator Anthon** moved to send **RS 30393** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

RS 30361C1 **Relating to State Symbols - Amends Chapter 45, Title 67, Idaho Code.** **Senator Cook** shared how he was lobbied by fourth graders around the state for a state dinosaur. He said *Oryctodromeus* was first discovered in 2006. Its name meant digging runner because it was a burrowing creature. *Oryctodromeus* was a small herbivore that lived during the Cretaceous Period. It was seven feet long and weighed about seventy pounds. The dinosaur fossils are found in the Caribou Mountains. Senator Cook provided copies of some of letters he received from fourth graders (Attachment 2).

MOTION: **Senator Harris** moved to send **RS 30361C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 30461 **Relating to Adoption Proceedings - Amends Section 16-1506, Idaho Code.** **Senator Lee** said **RS 30461** changed language to address permanency. Before a family could petition the court for adoption, it must have lived in the state for six consecutive months.

MOTION: **Senator Harris** moved to send **RS 30461** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 30462 **Relating to the Transfer of Pupils - Amends Section 33-1402, Idaho Code.** **Senator Den Hartog** explained the bill updated Idaho code on open enrollment to allow families to enroll their children in the public school that worked best for them. It was the first comprehensive update to the law in 30 years. There was no fiscal impact to the general fund.

MOTION: **Senator Harris** moved to send **RS 30462** to print. **Senator Anthon** seconded the motion.

The motion to send RS 30462 to print passed by a buck slip.

MINUTES APPROVAL: **Senator Wintrow** moved to approve the minutes of February 17, 2023. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:31 a.m.

Senator Guthrie
Chair

Joyce Brewer
Secretary